



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0432; FRL-10001-28-Region 9]

Air Plan Approval; California; Santa Barbara County Air Pollution Control District;

Stationary Source Permits and Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Santa Barbara County Air Pollution Control District's (SBAPCD or "the District") portion of the California State Implementation Plan (SIP). These revisions concern the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under the Clean Air Act (CAA). This action updates the SBAPCD's applicable SIP with current permitting rules. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0432 at <https://www.regulations.gov>, or via email to R9AirPermits@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other

information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

- A. *What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates they were adopted by the

SBAPCD and submitted by the California Air Resources Board (CARB). These rules represent portions of the SBAPCD's current program for preconstruction review and permitting of new or modified stationary sources under its jurisdiction. The rule revisions that are the subject of this action are intended to satisfy the general preconstruction review requirements under section 110(a)(2)(C) of the Act (minor NSR) and the NSR program requirements contained in 40 CFR 51.160 through 164. The rules also include revisions to the SBAPCD's current preconstruction review and permitting program. The SBAPCD is not required to implement a nonattainment NSR program because Santa Barbara County is classified as attainment or unclassifiable for all national ambient air quality standards (NAAQS). The SBAPCD implements a SIP-approved prevention of significant deterioration (PSD) permitting program that was approved into the SIP on November 12, 2015.¹ The SBAPCD has not submitted any rule revisions in this action that affect the PSD program. Therefore, we are not evaluating whether this SIP submittal satisfies NSR program requirements at 40 CFR 51.165 (Nonattainment NSR) or 51.166 (PSD), as none of the rules or rule revisions in this submittal address these NSR program requirements.

TABLE 1 - SUBMITTED RULES

Rule #	Rule Title	Adopted/ Amended Date	Submitted Date
102	Definitions	8/25/2016	10/18/2016
105	Applicability	8/25/2016	10/18/2016
202	Exemptions to Rule 201	8/25/2016	10/18/2016
204	Applications	8/25/2016	10/18/2016
205	Standards for Granting Permits	4/17/1997	3/10/1998
809	Federal Minor New Source Review	8/25/2016	10/18/2016

¹ 80 FR 69880.

These submitted rules must be determined to meet the completeness criteria in 40 CFR part 51 Appendix V before commencement of formal EPA review. The EPA deemed these rules to be complete by operation of law to meet the completeness criteria on October 18, 2016 (for Rules 102, 105, 202, 204, and 809) and on March 10, 1998 (for Rule 205).

B. *Are there other versions of these rules?*

The EPA last approved significant revisions or updates to the SBAPCD's SIP-approved NSR program on February 9, 2016, and November 12, 2015. The existing SIP-approved NSR minor source program for new or modified stationary sources under the SBAPCD's jurisdiction generally consists of the versions of the rules identified below in Table 2.

TABLE 2 – CURRENT SIP APPROVED RULES

Rule #	Rule Title	SIP Approval Date	Federal Register Citation
102	Definitions	4/11/2013	78 FR 21545
105	Applicability	6/3/1999	64 FR 29790
201	Permits Required	2/9/2016	81 FR 6758
202	Exemptions to Rule 201	5/5/1982	47 FR 19330
203	Transfer	2/9/2016	81 FR 6758
204	Applications	2/9/2016	81 FR 6758
205	Standards for Granting Applications	5/5/1982	47 FR 19330
206	Conditional Approval of Authority to Construct or Permit to Operate	2/9/2016	81 FR 6758
212	Emission Statements	5/26/2004	69 FR 29880

Collectively, these regulations establish the NSR requirements currently in place for minor stationary sources under the SBAPCD's jurisdiction in California. If the EPA finalizes the action proposed herein, the submitted versions of the rules listed in Table1 will replace their respective rule versions listed in Table 2.

C. *What is the purpose of the submitted rule revisions?*

As noted above and described in further detail below, the submitted rules are intended to satisfy the minor NSR requirements of section 110(a)(2)(C), as well as to implement certain other updates to the NSR program, such as reorganization and renumbering of certain rule references, revisions to certain rule text to improve clarity, and other such revisions. Minor NSR requirements are generally applicable for SIPs in all areas, regardless of attainment status, and California is required to adopt and implement these requirements as part of a SIP-approved NSR permitting program.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rules?*

The EPA has evaluated the submitted rules for compliance with applicable requirements of section 110(a)(2)(C) and associated regulations at 40 CFR 51.160-164. We have also reviewed the rules for consistency with other CAA general requirements for SIP submittals, including requirements at section 110(a)(2) regarding rule enforceability, and requirements at sections 110(l) and 193 for SIP revisions.

Section 110(a)(2)(C) of the Act requires each SIP to include a program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the NAAQS. The EPA's regulations at 40 CFR 51.160-51.164 provide general programmatic requirements to implement this statutory mandate. These requirements, commonly referred to as the "minor NSR" or "general NSR" program, apply generally to both major and non-major stationary sources and modifications and in both attainment and nonattainment areas. There are additional statutory and regulatory

requirements specifically for PSD and nonattainment NSR permitting programs at 40 CFR 51.165-166 that apply to major sources in nonattainment and attainment areas, respectively. The submitted rules are not relevant to or affect PSD or nonattainment NSR program specific requirements.

Section 110(a)(2)(A) of the Act requires that regulations submitted to the EPA for SIP approval must be clear and legally enforceable. Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990, in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s). With respect to procedures, CAA sections 110(a) and 110(l) require that a state conduct reasonable notice and hearing before adopting a SIP revision.

B. Do the rules meet the evaluation criteria?

The EPA finds that the submitted rules satisfy the applicable CAA and regulatory requirements. Accordingly, we are proposing to fully approve them under CAA section 110(k)(3). Below, we discuss generally our evaluation of the submitted rules. The technical support document (TSD) included in the docket for this proposed rulemaking contains a more detailed analysis of each submitted rule.

We find that the submitted rules satisfy the minor NSR requirements. The rules clearly identify the kinds of projects subject to review under the District's program, include legally enforceable procedures to ensure that construction will not violate the state's control strategy or

interfere with attainment or maintenance of the NAAQS, provide for public availability of relevant information, and meet other requirements of the minor NSR regulations at 40 CFR 51.160–164.

The submitted rules comply with the substantive and procedural requirements of CAA section 110(l). With respect to the procedural requirements, based on our review of the public process documentation included with the submitted rules, we find that the SBAPCD has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to submittal of this SIP revision and has satisfied these procedural requirements under CAA section 110(l). With respect to the substantive requirements of CAA section 110(l), we have determined that our approval of the submitted rules would either strengthen the applicable SIP, or at a minimum make it no less stringent. As a whole, we have determined that our approval of this SIP submittal would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act.

CAA section 193 includes a savings clause, pertaining to nonattainment areas, that precludes modifications to certain control requirements unless equivalent or greater emission reductions are achieved. The provisions of section 193 do not apply to this SIP revision because Santa Barbara County is currently classified attainment or unclassifiable for all NAAQS.

The submitted rules are otherwise consistent with criteria for the EPA's approval of regulations submitted for inclusion in the SIP, including the requirement at CAA section 110(a)(2)(A) that submitted regulations be clear and legally enforceable. For the reasons stated above and explained further in our TSD, we find that the submitted NSR rules satisfy the applicable CAA and regulatory requirements for minor NSR programs under CAA section

110(a)(2)(C).

C. Proposed action and public comment

As authorized in section 110(k)(3) of the Act, the EPA may approve a plan revision in whole or in part if it meets all applicable requirements. Based on our evaluation of the submitted rules, the EPA is proposing to fully approve the SBAPCD's October 18, 2016 submittal (consisting of Rules 102, 105, 202, 204, and 809) and March 10, 1998 submittal (consisting of Rule 205).

The intended effect of our proposed approval action is to update the applicable SIP with the SBAPCD rules described above. If we finalize this action as proposed, our action would be codified through revisions to 40 CFR 52.220 (Identification of plan—in part).

We will accept comments from the public on this proposal until [**Insert date 30 days after the date of publication in the Federal Register**].

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SBAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA Administrator is required to approve a SIP submission that

complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Administrative practice and procedure, Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: October 8, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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